

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COUNTY OF NEWPORT

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall on the 23rd day of June 2008 A.D. at 7:00 p.m.

President Durfee opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:

Joanne M. Arruda
Donald Bollin
Paul E. Carroll
Hannibal F. Costa

Louise Durfee
Jay Edwards
Brian A. Medeiros

Town Administrator, James C. Goncalo
Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council to View Common Burial Ground Memorial Garden (To be done at future meeting)

BUSINESS BROUGHT BEFORE THE COUNCIL

Councilor Bollin at this time read the items on the Consent Agenda for approval.

Councilors Arruda requested the removal of item A-2-i from the Consent Agenda.

Councilor Carroll requested the removal of item A-4

Councilor Costa requested the removal of item A-2-c

Councilor Medeiros seconded by Councilor Edwards motioned to approve the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

Approval of Minutes of Previous Meetings.

- (C.A.) 1. a. Approval of Minutes Regular Town Council Meeting June 9, 2008
b. Approval of Minutes Executive Session Minutes Meeting June 9, 2008

Receipt of Minutes from Various Board and Commissions:

- (C.A.) 2. Receipt of Minutes from the Following Boards, Commissions
- | | |
|----------------------------|-----------------------------------|
| a. Landfill Sub- Committee | b. Charter Review Commission (4) |
| c. Removed from C.A. | d. School Committee |
| e. Zoning Board of Review | f. Open Space Commission |
| g. Historical Cemetery | h. Economic Development Committee |

Correspondence

(C.A.) 3. CORRESPONDENCE - RECEIVE AND FILE

- a. Received from Town of Charlestown Resolution Supporting USS Saratoga Museum at Quonset Business Park
b. Received from Visiting Nurse Association Little Compton Invitation

(C.A.) 5. Request for Written Response to Council on Wind Power from Chris Spencer to be Continued to July 14th Meeting

Cemetery Commission Minutes

Councilor Costa requested removal of this item for further discussion regarding the selling plots. Was under the impression vaults were NOT provided with the purchase. Shirley Moller from the Cemetery Commission stated these front vaults are just for cremations. Councilor Costa motioned to accept the minutes from the Cemetery Commission, seconded by Councilor Edwards. Motion passed unanimously.

Recreation Commission

Councilor Arruda requested removal of this item from the Consent Agenda for discussion regarding a request received by Recreation Chair Jack Cook for a weekend party on Fogland Beach. Mr. Cook explained requesting to cook on the beach, boat will be moored, there will be no open fires and will be using a gas grill. Councilor Arruda questioned whether there would be music. The man expected 8-10 people, who were told the beach rules and regulations, must be adhered to. Cook said there was no mention of bands and were not planning tents. Has seen this type of activity with people who drive to the beach. Councilor Carroll questioned what time the gates close. Cook said the park closes at sunset. President Durfee asked if the man submitted anything in writing. Cook said there was no formal request just a phone call. Councilor Carroll stated there should be a process. Councilor Arruda also stated Councilors often get calls from residents who want to know what is going on. Need to keep Council aware of these issues.

Councilor Arruda motioned to accept the Recreation minutes, seconded by Councilor Medeiros. Motion passed unanimously.

A4. Approval of Tax Assessor Abatements

Councilor Carroll requested removal of this item and recused himself due to business relationship. Councilor Edwards motioned to accept the Tax Assessor Abatements, seconded by Councilor Arruda. Vote was 6-0.

PUBLIC HEARINGS

The Town Council was sitting as the Board of Licensing Commissioners:

BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:

Town Clerk – Suspension of Ponta License Until Compliant with District Court Order

The Town Clerk asked the Council if they wanted to suspend the license for the Ponta Delgada Patriots Club, which is currently active. There was a court order entered on 6/17/08 to close until fully compliant with fire codes stating no use or occupancy. Solicitor Teitz noted the Clerk has physically received the license, appropriate to suspend until compliant. Councilor Costa motioned no action to be taken, seconded by Councilor Edwards. Solicitor Teitz stated to formalize what has been done without action by the Council; do not have the right to hold the license. Councilor motioned for no action, Councilors Durfee and Arruda opposed. Motion passed 5-2.

Lori Smith d/b/a Hot Diggity Dogs, 3622 Main Road – Request Approval for Peddler's and Hawker's Licenses - Subject to Meeting All Legal Requirements

Councilor Carroll reminded Ms. Smith about the ordinance that prohibits serving food around the recreation areas, section 58-33. Only organized leagues can serve food, approved by the Recreation Commission. If approved wouldn't be able to serve food within 500 feet. Ms. Smith had received approval from the Recreation Commission, which could benefit from a percentage of the profits. Councilor Durfee stated recreation does not have authority to violate Town ordinance. Ms Smith stated she was aware of the ordinance, has no desire to compete with Little Leagues. President Durfee questioned if the license was for a peddler or a hawker. Ms. Smith replied she needed both licenses to cover a broader area. Councilor Carroll motioned to approve subject to meeting all legal requirements, seconded by Councilor Edwards. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS

Town Clerk – Re-appointments to Various Boards and Commissions-(See back page)

Town Clerk provided a list of re-appointments to various Boards and Commissions. Has been advertised and all except Arts and Cemetery Commissions currently have vacancies. The appointees have already been before the Council. Councilor Edwards motioned to approve the appointments for all committees on the re-appointment list as put forward, seconded by Councilor Arruda. Motion passed unanimously.

REQUESTS FOR REAPPOINTMENT**ART COUNCIL**

Mary Sexton 2-year term expiring 6/30/2010

CEMETERY COMMISSION

Anne Turcotte 3-year term expiring 6/30/2011

Shirley Moller 3-year term expiring 6/30/2011

HISTORICAL CEMETERY COMMISSION

Isobel Hart 3-year term expiring 6/30/2011

Robert C. Martin 3-year term expiring 6/30/2011

James L. Spears 2-year term expiring 6/30/2010

STILL (1) VACANCY

CONSERVATION COMMISSION

Thomas Ramotowski 3-year term expiring 6/30/2011

Patricia Sullivan 3-year term expiring 6/30/2011

Stuart Hardy 3-year term expiring 6/30/2011

STILL (3) VACANCIES

RECREATION COMMISSION

Deborah S. Ebbitt 3-year term expiring 6/30/2011

Phyllis Brower 3-year term expiring 6/30/2011

STILL (1) VACANCY

RECYCLING COMMITTEE

Steven P. Rys 3-year term expiring 6/30/2011

Deborah A. Dupont 2-year term expiring 6/30/2010

STILL (1) VACANCY

TAX ASSESSOR BOARD OF REVIEW

Kathleen G. Skrzypiec 3-year term expiring 6/30/2011

STILL (1) VACANCY

TREE COMMISSION

Peter M. Moniz 4-year term expiring 6/30/2012

STILL (1) VACANCY

ZONING BOARD OF REVIEW

Susan J. Krunholz 5-year term expiring 6/30/2013

Raymond LaFazia (1st Alternate) Annual appointment expiring 6/30/2009

STILL (1) VACANCY FOR SECOND ALTERNATE

At this time, Councilor Durfee announced the walk for the Common Burial Ground Memorial Park will take place at a future meeting.

Also, Councilor Durfee awarded the "Golden Pillow award to Mr. Alex Cote for his perfect attendance at all council meetings and remaining until after Executive Session without snoring.

UNFINISHED BUSINESS**Councilor Medeiros - Resolution in Support of Wind-Power Legislation**

Councilor Medeiros reported that the Wind Power Legislation looks like it will go forward. No motion was made for this item. Councilor Medeiros withdrew.

FINANCIAL BUSINESS:

Town Treasurer – Requests Council Approval of FY 09 Betterment Fee Estimate for Starwood Pursuant to the Betterment Fee Ordinance

Council received report on Starwood's estimated betterment fees for FY 09. President Durfee asked the Treasurer about quarterly disclosure statements, haven't received any for some time. Treasurer replied statements are being prepared. Councilor Costa replied report difficult to read. Councilor Bollin stated an understanding of betterment fees is needed. Necessary for developer to pay the difference to the Town to cover the entire debt amount of the bond. Betterment Fees dropped as the property is sold and additional taxes collected cover more of the debt service. President Durfee pointed out the Town currently receives roughly \$62,699 above the debt service. Administrator Goncalo stated the report was satisfactory. Councilor Bollin motioned to approve the Betterment Fee as set forth, seconded by Councilor Carroll. Motion passed on a vote of 6-1, Councilor Edwards opposed.

Town Administrator – Request Approval to Carry Forward Funds – Attached List-(See last pages)

Town Administrator Goncalo requested the Release of Carry Forward Funds as attached. Requested an amendment for additional carry-forward of balance in litigation after transfers currently requested of \$78,000.00 on next agenda item. Councilor Costa stated the vote on transfers be handled first.

Town Administrator – Request Approval to Transfer Funds – Attached List-(See last pages)

Administrator Goncalo prepared the list of transfers to cover expenses where there have been shortfalls, mainly reflecting litigation and fire dept. overtime Codifying was duplicated on both lists for \$9.925, the copy has been corrected.

Councilor Bollin questioned the transfer from Stormwater Management, as ongoing monies were needed for future projects. Administrator Goncalo replied those were unused funds. DPW Director Steve Berlucchi responded many projects have been completed. A basic minimal amount should cover for the next fiscal year.

Councilor Costa asked if we were allowing the transfers to fix overspending. Councilor Bollin stated the Council should be getting reports about shortfalls on a regular basis. Goncalo replied we were correcting those that we can. Councilor Edwards pointed out transfers of \$21,000 already occurred for Fire Dept. Overtime. Councilor Bollin pointed out he has in the past voted against Fire Dept. transfers representing over \$60,000 in last three months. Goncalo replied Fire Dept. Overtime is spent, just trying to cover payroll.

Councilor Costa while supportive of the Administrator, made a motion to approve the transfers as listed except for Fire Dept. Overtime. Seconded by Councilor Bollin. Goncalo stated the bulk of the transfers are to the litigation account, after payment of \$12,000 and encumbering \$20,000 the balance of \$46,000 needs to be carried forward.

Councilor Edwards amended the motioned to approve all the listed transfers as amended, seconded by Councilor Carroll. Motion carried on a vote of 5-2, Councilors Bollin and Costa opposed.

**TOWN OF TIVERTON
TRANSFER LIST**

The below list of transfers is to cover expenses in various accounts where shortages exist!

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
554-100	Salary - DPW Super	215-345 Consulting - Rossi \$ 2,626.46
		215-100 Salary-Tax Collector \$ 130.76
		215-101 Salary-Tax Clerical \$ 1,163.99
		112-537 Town Internet Service \$ 375.69
		884-459 Recreation Mowing \$ 1,776.44
		105-356 Litigation \$ 1,851.66
333-612	Electric	214-100 Salary Treasurer \$ 1,261.94

112-101	Town Admin Clerical	112-100	Town Admin Salary	\$	2,110.00
214-101	Treasurer-Clerical	214-100	Salary-Treasurer	\$	2,548.41
		105-356	Litigation	\$	4,000.00
102-890	Council Contingency	105-375	Legal-Zoning	\$	2,334.00
		105-359	Litigation	\$	5,000.00
222-261	Special Retirement	105-359	Litigation	\$	16,500.00
230-295	Unfunde3d Liability	105-359	Litigation	\$	5,000.00
212-730	Computer Upgrades	212-398	Professional Services	\$	2,200.00
212-529	Publications			\$	500.00
212-535	Telephone			\$	800.00
212-623	Supplies			\$	500.00
212-521	Mileage			\$	150.00
553-813	Stormwater Mgmt	215-674	Tax Collector - Postage	\$	2,311.87
	Stormwater Mgmt	105-359	Litigation	\$	6,500.00
	Stormwater Mgmt	105-391	Labor Counsel	\$	1,000.00
219-266	Health Insurance	331-102	Fire Dept Overtime	\$	21,000.00
101-101	Town Clerk Clerical	105-359	Litigation	\$	10,000.00
101-550	Town Clerk Recording		Litigation	\$	5,000.00
338-745	Street Lighting		Litigation	\$	10,000.00
112-101	Town Admin Clerical		Litigation	\$	4,500.00
				\$	111,141.22

Town Administrator – Request Approval to Carry Forward Funds – Attached List- Continued

Administrator Goncalo wanted to add \$46,356.73 to the Carry Forward list for the litigation account and corrected amount for \$9,925.00 codifying. Councilor Edwards motioned to approve the amounts described on the attached Carry Forward List including Account #105-359 for \$46,000. Seconded by Councilor Medeiros the motion passed unanimously. President Durfee suggested any litigation expenses involving Southern Union be treated and separately billed.

TOWN OF TIVERTON
2007-2008 CARRY FORWARDS

<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>REMARKS</u>
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098-943	Town Wide GIS Mapping	\$	28,215.00	In Process
098-944	Town Wide Fire Code Upgrade	\$	45,834.26	In Process
665-690	Arts Council Operating	\$	1,653.47	See enclosed
098-997	Fogland Survey	\$	15,000.00	See enclosed
214-733	Treasurer Computers	\$	17,200.00	Project now beginning
108-340	Stenographer Services	\$	805.49	Petitioner deposit
554-698	Sand, Salt, Gravel, Piping	\$	25,602.96	Possible pipe for drainage
554-794	Paving & Drainage	\$	33,200.39	08-09 account reduced
554-611	Gas & Diesel	\$	5,000.00	expected increase
554-610	Heat	\$	2,000.00	08-09 account reduced
101-553	Recodify Town Code	\$	9,925.00	In Process
105-359	Litigation	\$	46,356.73	Pending Litigation
		\$	230,793.30	

NEW BUSINESS:

Town Council – Extension of Bay Street Moratorium

Councilor Bollin motioned to extend the Bay Street Moratorium for a period of six months to December 31, 2008. Seconded by Councilor Costa the motion passed unanimously.

Jack Cook, Recreation Commission – Dedication of Track to Bobby Doyle

Recreation Chairman Jack Cook to approve the Dedication of the Town Farm Track to Bobby Doyle. In April of this year the track at the Town Farm was dedicated. by the Recreation Commission. Chairman Cook in discussion with other Recreation Members made the decision to dedicate the field and did not realize the need for authority from the Council. Discussion ensued by several Councilors with issues of being informed after the fact. President Durfee stated it is now June and this happened in April, would prefer to pass.

Cook stated responsibility was his, the late Bobby Doyle was a premier runner and felt the dedication was well deserved. Stated he currently had lack of available time to put full effort into commission work and would be stepping down as Chairman of commission. Councilor Bollin motioned no action be taken, seconded by Councilor Costa.

Mrs. Lori Doyle and son of Bobby Doyle also stated her husband had many accomplishments and victories as a runner, his dedication to the Town and his community involvement. She was very proud to have a monument dedicated to him. President Durfee pointed out the motion is not to revoke the dedication of the Town Farm Track. The motion from Councilor Bollin is to take no action, seconded by Councilor Costa passed on a vote of 5-1, Councilor Medeiros opposed.

Council and Charter Review Commission – Discussion of Proposed Amendments to Town Charter for November Ballot

Chairman Cecil Leonard and Lora Epke from the Charter Review Commission addressed the Council on the proposed Charter Questions to present on the November election ballot. The Commission has approved eight questions with two more pending, including the alternative to the Financial Town Meeting. The Cemetery Commission came to the Charter Commission too late in the process in order for their question to be included. Have settled on an all day referendum to replace the FTM but are still working on the Charter references. Sweeping changes to be made. Should be wrapped up by July 14th for public hearing.

Councilor Medeiros referenced some talk about a workshop on June 30 and whether or not this proposal would be ready. Various Councilors' had concerns with not having the completed proposal for review in time. President Durfee also had some serious questions, asked if the Council wished to hold a workshop on June 30, 2008 for discussion on proposals. Councilor Bollin pointed out that the complete language of the questions was needed for advertising and deadline getting close. Chairman Leonard asked for guidance and stated the Council's role was to approve and not go through the details and that by rules of process according to the Charter, the Council prevail is to address.

Solicitor Andy Teitz stated when that ad runs the questions and the backup must be available at the Town Clerk's Office. Not frozen change at a public hearing. Council prerogative, State Constitution language is vague. The report of the Charter Commission is advisory to the Council. Council could go through with all recommended proposals, none or amend.

Mr. Leonard stated once the Charter Commission gives their final report their term expires July 9, 2008. Will be prepared for informal public hearing on June 30, 2008. Councilors Bollin and Costa pointed out that date cannot be met because ten days notice must be given for advertised public hearing.

President Durfee remarked the workshop should be special meeting that way the Council can vote. Councilor Edwards stated the sooner the Council gets the questions the better. Councilor Bollin motioned, seconded by Councilor Edwards for a special meeting on Monday, June 30, 2008 for any action or discussion on Charter amendments. Motion passed 6-1. Councilor Costa opposed.

Chairman Leonard thanked all the citizens for their thoughts and ideas and appreciated the input. He also thanked the Town Employees, particularly those in the Town Clerk's Office for all their help and thanked his fellow Commission Members for their efforts.

Request from Cemetery Commission for Charter Amendment

Withdrawn.

BIDS & REQUESTS FOR PROPOSALS

S. Berlucchi, DPW Director – Award of Contract for Guard Rail Installation Recommendation – Low Bidder – COSCO, Inc. Woonsocket, RI

Councilor Edwards motioned to award on a unit price basis a contract for Guard Rail Installation to COSCO, Inc. 707 Park East Drive, Woonsocket, RI 02985. Seconded by Councilor Bollin the motion passed unanimously.

DPW Director stated there is nothing planned currently; want to keep for emergency measures only, by linear foot.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS

1. Town Administrator Goncalo reported tax collections are running behind last year; so far this year approximately 1.2 million has been collected. Pointed out bills were mailed 5 days later than prior year.

2. Went out for bid on series 1 and 2 bonds for extensions, both for \$10 million each, one for Ft. Barton and one for Pocasset School. Bids came in lower than expected; one was at 2.58 % and the other 2.47%. The Town received a good rate. On June 25 signing final documents toward bonding of two schools.

PUBLIC ANNOUNCEMENTS:

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Costa received a copy of the Court Order regarding the Ponta Delgada Patriots Club, noted the Club was used for various charitable functions at no cost. Believed the Knights of Columbus are in a similar plight with regards to sprinklers. Solicitor Teitz reminded that the licenses are subject to meeting all legal requirements. The State Fire Marshall brought about the closing of the Ponta Club.

TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Memorandum From Solicitor Regarding Opinion of Job Performance Discussions

Job performance discussions regarding the Administrative Officer for the Planning Board. By statute A/O works with the Planning Board. Planning Board provides recommendations to the Council as a body; however, must follow notice in advance, discussion in private unless individual waives. Planning Board can't fire an Adm Officer, but can make recommendations to Council. However, planner falls under Town Administrator and Council.

Memorandum From Solicitor Regarding Opinion on Correspondence to Town Council

The Town Clerk had asked for a basic policy with regards to Agenda Requests. Town Solicitor Teitz addressed the items as follows:

1. Any request by a member of the Town Council will go on the Agenda.
2. Correspondence from the Town Administrator or the Town Solicitor will go on the Agenda.
3. At the discretion of the Town Clerk, correspondence addressed to the Town Council as a whole or to any one or more members shall be given to all Council members and a copy kept on file with the Clerk. Copies are available to the public unless they deal with a sealed executive session matter. Requests won't go on the Agenda unless there is a specific purpose or action for Council to act upon.

CLOSED EXECUTIVE SESSION

Councilor Bollin made a motion, to enter into Executive Session pursuant to 42-46-5(a)(2) –Litigation. Councilor Medeiros seconded the motion, which passed unanimously.

Councilor Bollin then made a motion to remain in Executive Session pursuant to 42-46-5(a)(2)- Collective Bargaining. Councilor Medeiros seconded the motion, which passed unanimously.

Councilor Bollin then made a motion to further remain in Executive Session pursuant to -42-46-5(a)(1)- Personnel - Town Administrator Notice Given. Councilor Medeiros seconded the motion, which passed unanimously.

The Council entered into Executive Session at approximately 9:00 p.m.

The Council returned to Open Session at approximately 9:40p.m.

OPEN SESSION:

Councilor Durfee announced no formal action had been taken in Executive Session.

Councilor Edwards motioned to seal the minutes of Executive Session, seconded by Councilor Arruda. Passed unanimously.

Councilor Carroll motioned to ratify and authorize President or Vice President to sign contract as of July 1st for Town Administrator. Seconded by Councilors Arruda and Edwards. Motion passed 6-1. Councilor Bollin opposed.

ADJOURNMENT:

Councilor Carroll motioned to adjourn at approximately 9:50 p.m. Seconded by Councilor Arruda. Meeting adjourned at approximately 9:50 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk